

Caution: DRAFT FORM

This is an advance proof copy of an IRS tax form. It is subject to change and OMB approval before it is officially released. You can check the scheduled release date on our web site (www.irs.gov).

If you have any comments on this draft form, you can submit them to us on our web site. Include the word DRAFT in your response. You may make comments anonymously, or you may include your name and e-mail address or phone number. We will be unable to respond to all comments due to the high volume we receive. However, we will carefully consider each suggestion. So that we can properly consider your comments, please send them to us within 30 days from the date the draft was posted.

Paid Preparer's Earned Income Credit Checklist

OMB No. 1545-1629

► **Do not send to the IRS. Keep for your records.**

For the definitions of the following terms, see **Pub. 596** for the year for which you are completing this form.

• **Investment Income** • **Qualifying Child** • **Earned Income**

Caution. Taxpayers who file **Form 2555** or **Form 2555-EZ** **cannot** claim the earned income credit (EIC). Taxpayers who were nonresident aliens for any part of the year **cannot** claim the EIC unless their filing status is married filing jointly.

Part I All Taxpayers

- 1 Taxpayer's name ► and year, after 2001, for which you are completing this form ►
- 2 Is the taxpayer's filing status married filing jointly, head of household, qualifying widow(er), or single? ☐ **Yes** ☐ **No**
- 3 Does the taxpayer, and the taxpayer's spouse if filing jointly, have a social security number (SSN) that allows him or her to work or is valid for EIC purposes (see the instructions before answering)? ☐ **Yes** ☐ **No**
Next, if you checked "**No**" on line 2 **or** line 3, **stop**; the taxpayer **cannot** claim the EIC. Otherwise, continue.
- 4 Is the taxpayer's **investment income** more than the limit that applies to the year on line 1? See Pub. 596 for the limit ☐ **Yes** ☐ **No**
- 5 Could the taxpayer, or the taxpayer's spouse if filing jointly, be a **qualifying child** of another person in the year on line 1? ☐ **Yes** ☐ **No**
Next, if you checked "**Yes**" on line 4 **or** line 5, **stop**; the taxpayer **cannot** claim the EIC. Otherwise, go to Part II or Part III, whichever applies.

Part II Taxpayers With a Qualifying Child

	Child 1	Child 2
Caution. If there are two children, complete lines 6–11 for one child before going to the next column.		
6 Is the child— <ul style="list-style-type: none">• The taxpayer's son, daughter, adopted child, or stepchild, or• A descendant of the taxpayer's son, daughter, adopted child, or stepchild, or• The taxpayer's brother, sister, stepbrother, or stepsister, or• A descendant of the taxpayer's brother, sister, stepbrother, or stepsister, or• The taxpayer's foster child?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
7 If the child is married, is the taxpayer claiming the child as a dependent? (If the child is not married, check "Yes.")	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
8 Did the child live with the taxpayer in the United States for over half of the year?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
9 Was the child (at the end of the year on line 1)— <ul style="list-style-type: none">• Under age 19, or• Under age 24 and a full-time student, or• Any age and permanently and totally disabled?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
Next , if you checked " Yes " on lines 6 through 9, the child is the taxpayer's qualifying child; go to line 10a. If you checked " No " on line 6, 7, 8, or 9, the child is not the taxpayer's qualifying child. If the taxpayer does not have a qualifying child, go to Part III on the back to see if the taxpayer can claim the EIC for taxpayers who do not have a qualifying child.		
10a Could any other person check " Yes " on lines 6 through 9 for the child? Next , if you checked " No " on line 10a, go to line 11. Otherwise, continue.	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
b Enter the child's relationship to the other person(s).		
c Is the other person(s) claiming the EIC based on the child?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
d If the tie-breaker rules applied, would the child be treated as the taxpayer's qualifying child (see the instructions before answering)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
11 Does the qualifying child have an SSN (see the instructions before answering)?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Did you check "Yes" on line 11?

- ☐ **Yes.** The taxpayer can claim the EIC if the taxpayer's **earned income** and adjusted gross income are each less than the limit that applies to the taxpayer's filing status for the year on line 1. See Pub. 596 for the limit. Complete **Schedule EIC** and attach it to the taxpayer's return. If there are two qualifying children with SSNs, list them on Schedule EIC in the same order as they are listed here. If the taxpayer's EIC was reduced or disallowed for a year after 1996, see Pub. 596 to find out if **Form 8862** must also be filed.

- ☐ **No.** The taxpayer **cannot** claim the EIC, not even the credit for taxpayers who do not have a qualifying child.

Part III Taxpayers Without a Qualifying Child

12 Was the taxpayer's main home, and the taxpayer's spouse if filing jointly, in the United States for more than half the year? (Military personnel on extended active duty outside the United States are considered to be living in the United States during that duty period.) ☐ **Yes** ☐ **No**

13 Was the taxpayer, or the taxpayer's spouse if filing jointly, at least age 25 but under age 65 at the end of the year on line 1? ☐ **Yes** ☐ **No**

Next, if you checked "**No**" on line 12 **or** line 13, **stop**; the taxpayer **cannot** claim the EIC. Otherwise, continue.

14 Is the taxpayer, or the taxpayer's spouse if filing jointly, eligible to be claimed as a dependent on anyone else's Federal income tax return for the year on line 1?

☐ **No.** The taxpayer can claim the EIC if the taxpayer's **earned income** and adjusted gross income are each less than the limit that applies to the taxpayer's filing status for the year on line 1. See Pub. 596 for the limit. If the taxpayer's EIC was reduced or disallowed for a year after 1996, see Pub. 596 to find out if **Form 8862** must be filed.

☐ **Yes.** The taxpayer **cannot** claim the EIC.

General Instructions

Caution. Do not use this form for a year before 2002. Instead, use the November 2000 revision of **Form 8867**.

Purpose of Form

Paid preparers of Federal income tax returns or claims for refund involving the earned income credit (EIC) must meet the due diligence requirements in determining if the taxpayer is eligible for, and the amount of, the EIC. Failure to do so could result in a \$100 penalty for each failure. See Internal Revenue Code section 6695(g).

Due Diligence Requirements. You will meet the due diligence requirements if **all four** of the following apply.

1. You complete Form 8867 (or your own form as long as it provides the same information as Form 8867).
2. You complete the EIC worksheet(s) in the Form 1040, 1040A, or 1040EZ instructions, or in Pub. 596 (or your own worksheet(s) as long as it provides the same information as the 1040, 1040A, 1040EZ, or Pub. 596 worksheet(s)).
3. You have no knowledge that any of the information used to determine if the taxpayer is eligible for, and the amount of, the EIC is incorrect.
4. You keep the following information for 3 years*:
 - Form 8867 (or your own form),
 - The EIC worksheet(s) (or your own worksheet(s)), **and**
 - A record of how, when, and from whom the information used to prepare the form and worksheet(s) was obtained.

*For returns and claims for refund due after October 16, 2000, the 3-year period begins the June 30th following the date you give the return or claim to the taxpayer to sign.

Specific Instructions**Line 2**

If the taxpayer was married at the end of the year, he or she must usually file a joint return to claim the EIC. However, if the taxpayer and his or her spouse were not living together at the end of the year, the taxpayer may be eligible to be treated as unmarried. See **Pub. 596**, Earned Income Credit, for details.

Line 3

For purposes of taking the EIC, a valid SSN is a number issued by the Social Security Administration unless "Not Valid for Employment" is printed on the social security card and the number was issued solely to apply for or receive a Federally funded benefit. You may find it useful to look at the social security card.

Line 6

If the child is the taxpayer's brother, sister, stepbrother, stepsister, or a descendant of the taxpayer's brother, sister, stepbrother, or stepsister, the taxpayer must care for the child as his or her own child.

A **foster child** is a child placed with the taxpayer by an authorized placement agency and whom the taxpayer cared for as his or her own child.

An **adopted child** includes a child placed with the taxpayer by an authorized placement agency for legal adoption even if the adoption

is not final. An authorized placement agency includes any person authorized by state law to place children for legal adoption.

A **descendant** usually refers to a grandchild or great-grandchild of the taxpayer. A niece or nephew is also considered a descendant of the taxpayer.

Line 7

If the child is married and the child's other parent claimed him or her as a dependent under the special rules for children of divorced or separated parents, check "Yes."

Line 10d

If you checked "Yes" on line 10a the child meets the conditions to be a qualifying child of both the taxpayer and at least one other person. However, only one person can claim the EIC based on that child. The other person(s) can claim the EIC based on another qualifying child, but cannot claim the EIC for people who do not have a qualifying child. The taxpayer and the other person(s) can decide who will take the EIC based on that qualifying child.

Tie-Breaker Rules. If more than one person claims the EIC based on the same child, the following rules apply.

- If one of the persons claiming the EIC is the child's parent, the child will be treated as the qualifying child of the parent.
- If both of the child's parents are claiming the EIC, the child will be treated as the qualifying child of the parent with whom the child lived for the longest period of time during the year entered on line 1. If the child lived with each parent for the same amount of time, the child will be treated as the qualifying child of the parent who had the **highest** adjusted gross income (AGI) for the year entered on line 1.
- If none of the persons claiming the EIC is the child's parent, the child will be treated as the qualifying child of the taxpayer who had the highest AGI for the year entered on line 1.

Line 11

See the line 3 instructions for the definition of an SSN. If the child does not have an SSN because he or she was born and died during the year entered on line 1, check "Yes."

Paperwork Reduction Act Notice. We ask for you to obtain the information on this form to carry out the Internal Revenue laws of the United States. You are required to obtain this information.

You are not required to obtain the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping, 13 min.; **Learning about the law or the form**, 8 min.; and **Preparing the form**, 24 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, keep it for your records.

